

August 6, 1997

Mr. Tib Belza, co-chair
Mr. Roger Strelow, co-chair
CalFed Bay Delta Advisory Council
Water Transfers Work Group
1416 Ninth Street, Suite 1155
Sacramento, California 95814

Dear Messrs. Belza and Strelow:

As BDAC's Water Transfers Work Group begins its process of developing water transfer policy, the agricultural community would like to offer its perspective on the issue and the role this tool plays in the management of California's water supply resources. We recognize that the state's water needs are real and immediate, affecting urban, environmental and agricultural uses throughout California. We also recognize that these needs will not be met by short term measures alone. BDAC's success in crafting a long term, comprehensive solution is key to the role (and acceptability) of water transfers in meeting these short term needs including supplemental reliability of existing systems.

Growth, drought and languishing water development have prompted some vocal interests to call for radical reallocation as the way to meet water needs. Some of those seeking reallocation advocate a mandatory reallocation of water through legislation or regulation. Others advocate a free market, with water going to the highest bidder. Both approaches rely almost exclusively on reallocating water rather than improving water supply. In that respect, they are both seriously flawed because they ignore three basic facts:

The existing water supply and conveyance systems are inadequate and must be improved or legitimate needs cannot be met, even if water is reallocated.

Under water reallocation, one user must give up water in order for another user to get water, which gives rise to significant redirected impacts. The process of reallocation will be long and difficult, and may not be successful, because the benefits of water extend beyond the water use. Those who would lose the use of the water without receiving any benefit will resist at all costs.

As the population grows, it will be increasingly important to add to our existing water supplies, not only to assure adequate water for public health and safety and the environment, but also to assure that the per-capita amount of water allocated to the production of food, fiber and flowers is sufficient.

Clearly, reallocation of water through voluntary transfers is preferable to the highly disruptive and contentious process of reallocation by mandate, already evident in various CalFed common program components. However, agricultural interests, as well as others, believe that water transfers will not, in isolation, solve California's water problems. The state needs a more comprehensive solution that includes the following elements:

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- ◆ new water development, expanded storage and conveyance facilities, additional off stream storage reservoirs and improvements in Delta plumbing;
- ◆ additional recharge programs;
- ◆ additional local water storage projects;
- ◆ continued improvements in urban and agricultural conservation;
- ◆ more efficient use of water dedicated to the environment;
- ◆ desalination; and
- ◆ reclamation of waste water.

Because transfers will not solve the state's water problems, together with the threat that transfers represent to the long term stability of the state's agricultural economy, the agricultural sector cannot support any state water policy that does not call for linkage of transfers to a comprehensive water plan that includes the elements identified above. In addition, three fundamental points must be reflected in any transfer proposal: water rights must be protected, the concerns of affected interests must be taken into account, and the proper flexibility must be provided to assure a supply for a growing population. Having identified the above overarching policy concerns, there are a number of priority principles regarding water transfers that we believe must be accommodated in any statewide water transfer policy adopted by CalFed:

VOLUNTARY

Any transfer policy should be in accordance with written agreements between a willing buyer and willing seller.

WATER RIGHTS

No party who would transfer water or permit the transfer of water should forfeit any rights through participation in a water transfer. No water buyer (individual or agency) should be permitted to assert any prescriptive, public use, public trust or other right to the water purchased, regardless of the terms of the transfer.

GROUNDWATER TRANSFERS

No party who enters into an agreement to transfer surface water should be permitted to replace the surface supply with groundwater or transfer groundwater directly.

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WATER AVAILABLE FOR TRANSFER

Riparian rights shall not be transferable.

TIMELINESS

Many transfers that are permitted by existing law are rendered infeasible by uncertainties and delays associated with the regulatory and environmental approval process. The approval process should be streamlined to expedite voluntary transfers while maintaining the appropriate environmental and third party protections.

JURISDICTION

The jurisdiction of the State Water Resources Control Board should not be expanded as it relates to its oversight of water transfers.

INITIATION

On the water suppliers initiative or at the request of landowners within its boundaries, the water supplier should develop a program with its landowners to provide for water transfers. The program should be implemented following a noticed public meeting and protect non-participating water users with its service area. If the water supplier fails to provide for a water transfer program, individual landowners should be permitted to submit proposals to the supplier to transfer water.

QUANTIFICATION

The amount of water available for transfer should be determined on an annual basis under procedures established by the water supplier. The amount of water available for transfer should be decreased if necessary by the supplier under reasonable conditions imposed to mitigate direct impacts of the transfer to the supplier and its other landowners. Third party impacts must be identified and mitigated.

TERM

In light of the aforementioned policy concerns, water transfers in the delta should be short-term and drought-related. Specifically, water transfers should be limited to three years, or if a dry year transfer agreement, the term should be for a maximum of ten years with water transferred in any three years during the term of agreement.

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CUMULATIVE IMPACTS


When considering water transfers, each individual transfer cannot be considered in isolation from other programs. As the attachment shows, the cumulative effects of reallocating agricultural water is very significant when looking at the entire state. There are undoubtedly many other transfers that are not on the list.

NOTICE


The key to third party protections is an adequate notice system so that all potentially affected parties are aware of a transfer proposal and given the opportunity to comment.

We appreciate the opportunity to outline for you some of our general concerns over this very complex program area. We look forward to further elaborating on these components in the workgroup meetings to be held over the coming months.

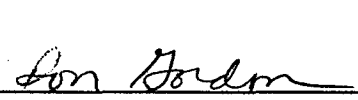
Sincerely,



David Guy
California Farm Bureau Federation



Jasper Hempel
Western Growers Association



Don Gordon
Agricultural Council of California



John Braly
California Cattlemen's Association

Attachment